Town of Yates Public Hearing and
Workshop Meeting
8 S. Main St., Lyndonville, NY 14098
June 10, 2024, 5:30PM

Present: Jim Simon, Supervisor
John Riggi, Councilman
Susan Hrovat, Councilman
Harold Suhr, Councilman
Terry Chaffee, Jr., Councilman
Michele Harling, Town Clerk

Excused:

Others: Larry Wolfe, Noelle Wiedemer, Bill Jurinich, Paul Lauricella, Sandy Lauricella, Joanna Follman

Supervisor Simon called the Public Hearing to order for the adoption of Local Law #1 of 2024 known as "Town of Yates Solar Energy Systems Law" at 5:35PM.

PLEDGE OF ALLEGIANCE

PUBLIC HEARING

Notice of said Public Hearing was duly published in the Batavia Daily News on May 16, 2024 and posted at the Yates Town Hall and on the Town of Yates website.

The purpose of such Public Hearing is to discuss the adoption of Local Law #1 of 2024 known as "Town of Yates Solar Energy Systems Law" as follows:

Local Law Filing — New York State Department of State
99 Washington Avenue, Albany, NY 12231
(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~County~~
~~City~~ of Yates, Orleans County, New York
Town
~~Village~~

Local Law No. 1 of the year 2024.

A local law entitled Town of Yates Solar Energy Systems Law
(Insert Title)

Be it enacted by the Town Board of the
(Name of Legislative Body)

~~County~~
~~City~~ of Yates, Orleans County, New York as follows:
Town
~~Village~~

Be it hereby enacted by the Town Board of the Town of Yates, in the County of Orleans, New York, as follows:

ARTICLE I: TOWN OF YATES SOLAR ENERGY SYSTEMS LAW

1. Title and Authority

A. This Local Law shall be known as the "Town of Yates Solar Energy Systems Law" And shall repeal and replace Local Law No. 1 of 2021, the Town of Yates Solar Energy Systems Law.

B. This Solar Energy Systems Law is adopted pursuant to sections 261-263 of the Town Law and section 20 of the Municipal Home Rule Law of the State of New York, which authorize the Town to adopt zoning provisions that advance and protect the health, safety and welfare of the community, and, in accordance with the Town law of New York State, "to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefor." The Town Board of the Town of Yates also enacts this law under the authority granted by:

1.) Article IX of the New York State Constitution, §§ 1(a), 2 (c), and 3(c)
2.) The supersession authority granted by New York Municipal Home Rule Law, § 10, Subdivision (1)(ii)(d)(3).
3.) New York Statute of Local Governments, § 10 (1) , (5), (6) and (7); and
4.) New York Municipal Home Rule Law, § 10 (1)(i) and (ii) New York Town Law §130.

2. Statement of Purpose

A. This Solar Energy Systems Law is adopted to advance and protect the public health, safety, and welfare of the Town by creating regulations for the installation and use of solar energy generating systems and equipment, with the goal of mitigating the impacts of Solar Energy Systems on environmental resources such as important agricultural lands, forests, wildlife and other protected resources, and.

3. Definitions

BUILDING-INTEGRATED SOLAR ENERGY SYSTEM: A combination of Solar Panels and Solar Energy Equipment integrated into any building envelope system such as vertical facades,

semitransparent skylight systems, roofing materials, or shading over windows, which produce electricity for onsite consumption.

GLARE: The effect by reflections of light with intensity sufficient as determined in a commercially reasonable manner to cause annoyance, discomfort, or loss in visual performance and visibility in any material respects.

GROUND-MOUNTED SOLAR ENERGY SYSTEM: A Solar Energy System that is anchored to the ground via a pole or other mounting system, detached from any other structure, that generates electricity for onsite or offsite consumption.

NATIVE PERENNIAL VEGETATION: native wildflowers, forbs, and grasses that serve as habitat, forage, and migratory way stations for pollinators and shall not include any prohibited or regulated invasive species as determined by the New York State Department of Environmental Conservation.

POLLINATOR: bees, birds, bats, and other insects or wildlife that pollinate flowering plants, and includes both wild and managed insects.

ROOF-MOUNTED SOLAR ENERGY SYSTEM: A Solar Energy System located on the roof of any legally permitted building or structure that produces electricity for onsite or offsite consumption.

SOLAR ACCESS: Space open to the sun and clear of overhangs or shade so as to permit the use of active and/or passive Solar Energy Systems on individual properties.

SOLAR ENERGY EQUIPMENT: Electrical material, hardware, inverters, conduit, storage devices (excluding batteries), or other electrical and photovoltaic equipment associated with the production of electricity.

SOLAR ENERGY SYSTEM: The components and subsystems required to convert solar energy into electric energy suitable for use. The term includes, but is not limited to, Solar Panels and Solar Energy Equipment. The area of a Solar Energy System includes all the land inside the perimeter of the Solar Energy System, which extends to any interconnection equipment. A Solar Energy System is classified as a Tier 1, Tier 2, or Tier 3 Solar Energy System as follows.

A. Tier 1 Solar Energy Systems include the following:

a. Roof-Mounted Solar Energy Systems
b. Building-Integrated Solar Energy Systems

B. Tier 2 Solar Energy Systems include Ground-Mounted Solar Energy Systems with system capacity up to 2 MW AC and that generate no more than 110% of the electricity consumed on the site over the previous 12 months.

C. Tier 3 Solar Energy Systems are systems that are not included in the list for Tier 1 and Tier 2 Solar Energy Systems.

SOLAR PANEL: A photovoltaic device capable of collecting and converting solar energy into electricity.

BATTERY ENERGY STORAGE SYSTEM (BESS) – One or more devices, such as a battery, often being lithium-ion batteries, or series of batteries or battery cells, assembled together, capable of storing energy to supply electrical energy at a future time, not to include a stand-alone 12-volt vehicle battery or batteries, or an electric motor vehicle or an electric motor vehicle's charging station.

A battery energy storage system is classified as a Tier 1 or Tier 2 Battery Energy Storage System as follows:

· Tier 1 Battery Energy Storage Systems have an aggregate energy capacity less than or equal to 600kWh.
· Tier 2 Battery Energy Storage Systems have an aggregate energy capacity greater than 600kWh.

4. Applicability

A. The requirements of this Local Law shall apply to all Solar Energy Systems permitted, installed, or modified in the Town after the effective date of this Local Law, excluding general maintenance and repair.

B. Solar Energy Systems constructed or installed prior to the effective date of this Local Law shall not be required to meet the requirements of this Local Law.

C. Modifications to an existing Solar Energy System that increase the Solar Energy System area by more than 5 % of the original area of the Solar Energy System (exclusive of moving any fencing) shall be subject to this Local Law.

D. All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code ("Building Code"), the NYS Energy Conservation Code ("Energy Code"), and the Town Zoning Code.

E. Any proposed solar energy system subject to review by the New York Board on Electric Generation and Siting and the Environment pursuant to Article 10 of the New York State Public Service Law, the Office of Renewable Energy Siting, or any other state agency with the relevant jurisdiction, shall be subject to all substantive provisions of this law and any other applicable laws, codes, ordinances and regulations of the Town of Yates, and any other applicable state or federal laws.

5. General Requirements

A. A building permit shall be required for installation of all Solar Energy Systems.

B. Issuance of permits and approvals for Tier 3 Solar Energy Systems by the Town Board shall include review pursuant to the State Environmental Quality Review Act [ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 ("SEQRA")].

6. Permitting Requirements for Tier 1 Solar Energy Systems

All Tier 1 Solar Energy Systems shall be permitted in all zoning districts and shall require site plan review by the Town Planning Board under the local zoning code or other land use regulation, subject to the following conditions for each type of Solar Energy Systems:

A. Roof-Mounted Solar Energy Systems

1) Roof-Mounted Solar Energy Systems shall incorporate, when feasible, the following design requirements:

    a. Solar Panels on pitched roofs shall be mounted with a maximum distance of 8 inches between the roof surface the highest edge of the system.

    b. Solar Panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.

    c. Solar Panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.

    d. Solar Panels on flat roofs shall not extend above the top of the surrounding parapet, or more than 24 inches above the flat surface of the roof, whichever is higher.

2) Glare: All Solar Panels shall have anti-reflective coating(s).

3) Height: All Roof-Mounted Solar Energy Systems shall be subject to the maximum height regulations specified for principal and accessory buildings within the underlying zoning district.

B. Building-Integrated Solar Energy Systems shall be shown on the plans submitted for the building permit application for the building containing the system.

7. **Permitting Requirements for Tier 2 Solar Energy Systems**

All Tier 2 Solar Energy Systems shall be permitted in all zoning districts and shall require site plan review by the Town Planning Board under the local zoning code or other land use regulations, subject to the following conditions:

A. Glare: All Solar Panels shall have anti-reflective coating(s).

B. Setbacks: Tier 2 Solar Energy Systems shall be subject to the setback regulations specified for the accessory structures within the underlying zoning district. All Ground-Mounted Solar Energy Systems shall only be installed in the side or rear yards in residential districts.

C. Height: Tier 2 Solar Energy Systems shall be subject to the height limitations specified for accessory structures within the underlying zoning district.

D. Screening and Visibility.

1) All Tier 2 Solar Energy Systems shall have views minimized from adjacent properties to the extent reasonably practicable.

2) Solar Energy Equipment shall be located in a manner to reasonably avoid and/or minimize blockage of views from surrounding properties and shading of property to the north, while still providing adequate solar access.

E. Lot Size: Tier 2 Solar Energy Systems shall comply with the existing lot size requirement specified for accessory structures within the underlying zoning district.

8. Permitting requirements for Tier 3 Solar Energy Systems

All Tier 3 Solar Energy Systems require the issuance of a special use permit by the Town Board and are only permitted within the Industrial Zoning District of the Town, and subject to site plan application and substantive requirements set forth in this Section. In the event the New York State Office of Renewable Energy Siting, or any similar state agency, waives or declines to apply this prohibition of use, then all other substantive provisions of this law, and any other applicable Town law, are intended to apply.

A. Applications for the installation of Tier 3 Solar Energy System shall:

1) Be filed after an initial in-person meeting between the Applicant, the Town Supervisor or his designee, and the Code Enforcement Officer.

2) Be accompanied by a payment of twenty-five-thousand-dollars ($25,000.00) to the Town, to be held in an escrow controlled by the Town (the “professional services escrow”), for the purposes of paying any professional services fees incurred for review of the application, or construction and compliance monitoring. Whenever the amount of funds in the professional services escrow falls below $5,000, the applicant shall contribute an additional $5,000.00 to the escrow. Any funds remaining in the professional services escrow upon commencement of commercial operation of the Non-Tier 1 Solar Energy System shall be returned to the applicant, or its successor or assign. Town Board may use the Town Designated Engineer (TDE) and retain consultants, lawyers, and/or other experts necessary to assist the Town in reviewing and evaluating the Application.

3) Be reviewed by the Code Enforcement Officer and Town Board for completeness. Applicants shall be advised within 45 business days of the completeness of their application or any deficiencies that must be addressed prior to substantive review.

4) Be subject to a public hearing after application is deemed complete to hear all comments for and against the application. The Town Board shall have a notice printed in the newspaper of record and the town website at least 5 days in advance of such hearing. Applicants shall have delivered the notice by first class mail to adjoining landowners or landowners within 2,640 feet of the property at least 10 days prior to such a hearing. Proof of mailing shall be provided to the Town Board at the public hearing.

5) Be referred to the County Planning Board and adjacent municipalities, if required.

B. Upon closing of the public hearing, the Town Board shall take action on the application within 120 days of the public hearing, which can include approval, approval with conditions, or denial. The 120-day period may be extended upon consent by both the Town Board and applicant.

C. Underground Requirements. All on-site utility lines shall be placed underground with the exception of the main service connection at the existing utility company right-of-way.

D. Vehicular Paths: Vehicular paths and emergency access ways within the site shall be designed to minimize the extent of impervious materials and soil compaction. Topsoil in the same location as roads shall be stripped and stockpiled, and roads shall be capable of bearing the weight of emergency vehicles and sufficiently wide to permit access to emergency vehicles such as fire trucks and ambulances so that emergency vehicles may pass each other without leaving the road. Applicants, their successors, and assigns shall be responsible for keeping all access roads clear and passable by emergency equipment at all times.

E. Signage.

1) No signage or graphic content shall be displayed on the Solar Energy Systems except the manufacturer's name, equipment specification information, safety information, and 24-hour emergency contact information. Said information shall be depicted within an area no more than 8 square feet.

2) As required by National Electric Code (NEC), disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.

F. Glare. All Solar Panels shall have anti-reflective coating(s).

G. Lighting. Lighting of the Solar Energy Systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.

H. Tree-cutting. Removal of existing trees larger than 4 inches in diameter is prohibited unless, as a conservation offset, an equal number of trees is planted onsite or offsite within the Town of Yates.

I. Forest Buffer: When the site contains or is surrounded by existing forest, a buffer of at least 50 feet of forest on the participating parcel where no trees shall be cut shall be established and maintained as a wild zone for the life of the facility. The exception to this shall be dead or diseased trees, which will be cut and removed to encourage healthy growth of existing trees.

J. Deforestation Mitigation: Forested sites shall not be deforested and sites deforested less than five years before application submittal shall not be used to construct Solar Energy Systems, unless the applicant offsets the adverse impact of deforestation through conservation of the same amount of existing similar habitat, or creation of the same amount of new sites to host similar habit ("Conserved Forest Habitat"). Conserved Forest Habitat created pursuant to this section shall be permanently conserved through creation of public parkland with covenants prohibiting deforestation and requiring the land to be kept in a natural, forested state, or by creation of a conservation easement held by an entity other than the applicant, and with restrictions requiring the land to be kept in a natural, forested state, or by any other means of permanent conservation acceptable to the Town. The Town may, but is not required to, hold any real property interest created pursuant to this section. Conserved Forest Habitat shall be located within the Town of Yates.

K. Mitigation of Agricultural Impacts: To offset or mitigate the adverse impact of using high quality soils for a non-agricultural purpose, and/or as required by New York Public Service Law Section 138(4), Solar Energy Systems shall limit the use of agricultural areas within their project limits to no more than 10 percent of soils classified by the NYS Department of Agriculture and Markets' Agricultural Land Classification as mineral soils groups 1 through 4, prime farmland, and prime farmland if drained. All Solar Energy Systems shall also adhere to the Department of Agriculture and Markets' Guidelines for Construction Mitigation for Agricultural Lands. To offset or mitigate the adverse impact of using high quality soils for a non-agricultural purpose, any solar energy facility sited on soils classified by the NYS Department of Agriculture and Markets' Agricultural Land Classification as mineral soils groups 1 through 4, prime farmland, and/or prime farmland if drained, shall (1) prepare and implement for the life of the facility an agricultural co-utilization plan acceptable to the Town; and (2) permanently conserve an equal amount of soils classified by the NYS Department of Agriculture and Markets' Agricultural Land Classification as mineral soils groups 1 through 4, prime farmland, and/or prime farmland if drained, located in the Town of Ripley, in a manner acceptable to the Town.

L. Decommissioning.

1) Solar Energy Systems that have been abandoned and/or not producing electricity for a period of 1 year shall be removed at the Owner and/or Operators expense, which at the

Owner's option may come from any security made with the Town as set forth in Section 10 herein.

2) A decommissioning plan, agreed to by the Town and signed by the owner and/or operator of the Solar Energy System shall be submitted by the applicant, addressing the following:

a. The cost of removing the Solar Energy System.

b. The time required to decommission and remove the Solar Energy System and all ancillary structures.

c. The time required to repair any damage caused to the property by the installation and removal of the Solar Energy System.

3) Security.

a. The deposit, executions, or filing with the Town Clerk of cash, letter of credit, or other form of security reasonably acceptable to the Town attorney, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal and restorations of the site subsequent to removal. The amount of the bond or security shall be 125% of the cost of removal of the Tier 3 Solar Energy System and restoration of the property with an escalator of 2% annually for the life of the Solar Energy System, or, at the Town's sole discretion, a qualified engineer acceptable to both parties shall provide an updated decommissioning cost estimate (the "Updated Decomissioning Cost Estimate"). The operator of the facility shall reimburse the Town for all reasonable professional fees incurred in obtaining an Updated Decomissioning Cost Estimate. The anticipated value of salvaged materials shall not be used to offset or reduce cost of removal as estimated for the purpose of calculating decommissioning security.

a. In the event of default upon performance of such conditions, after proper notice and expiration of any cure periods, the cash deposit, letter of credit, or security shall be forfeited to the Town, which shall be entitled to maintain an action thereon. The cash deposit, bond, or security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed.

b. In the event of default or abandonment of the Solar Energy System, the system shall be decommissioned as set forth in Section 10 herein.

M. Road Use Assurances – Prior to the issuance of the building permit and commencement of construction, an existing condition survey of the approved hauling routes using town roads shall be undertaken by the applicant at the Applicant's expense. Any road, road shoulder areas,

ditches, culverts, and its adjacent rights of way damaged during construction caused by the operator or its subcontractors on town roads shall be repaired or reconstructed to the satisfaction of the Town Board at the operator's expense. Road Use Assurances may be demonstrated through execution by the Town and the Applicant of a mutually agreeable Road Use Agreement.

N. A Host Community Benefit Agreement between the Town of Yates and a permit holder, with terms sufficient to mitigate or offset the adverse impacts of Solar Energy Systems with a project nameplate greater than 1 MW AC, is required prior to commencement of construction of any such project.

O. Site plan application. For any Solar Energy system requiring a Special Use Permit, site plan approval shall be required. Any site plan application shall include the following information:

1) Property lines and physical features, including roads, for the project site.

2) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures.

3) A one- or three-line electrical diagram detailing the Solar Energy System layout, solar collector installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.

4) A preliminary equipment specification sheet that documents all proposed solar panels, significant components, mounting systems, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.

5) Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the Solar Energy System. Such information of the final system installer shall be submitted prior to the issuance of building permit.

6) Name, address, phone number, and signature of the project applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the Solar Energy System.

7) Zoning district designation for the parcel(s) of land comprising the project site.

8) Property Operation and Maintenance Plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.

9) Erosion and sediment control and storm water management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.

10) Prior to the issuance of the building permit or final approval by the Town Board, but not required as part of the application, engineering documents must be signed and

sealed by a New York State (NYS) Licensed Professional Engineer or NYS Registered Architect.

P. Special Use Permit Standards and Additional Standards for Tier 3 Solar Energy Systems.

1) Lot size

    a. The property on which the Tier 3 Solar Energy System is placed shall meet the lot size requirements of the Industrial District.

2) Setbacks

    a. Tier 3 Solar Energy Systems shall be setback 200-feet from all property lines and roads.
    b. Tier 3 Solar Energy Systems shall be setback 500 feet from any structure.
    c. Tier 3 Solar Energy Systems shall be sited consistent with all applicable New York State and NWI (National Wetlands Inventory) Federal wetlands laws and regulations, with an additional 300-foot buffer and setback, including a 150-foot non-disturbance area within the buffer and setback. A non-disturbance area is an area where natural vegetation must be maintained nearest the wetland and riparian margins.

    d. Tier 2 and Tier 3 Solar Energy Systems shall not be located within 1,000 feet of, the following areas of sensitivity:

        1. One-hundred-year flood hazard zones considered an AE Zone on the FEMA Flood Maps.
        2. Properties included on or considered a Town's Historically Significant Structure, Site or Area, New York State or National Register of Historic Places, or otherwise identified as, or eligible for inclusion as, historically and/or significant resources.
        3. Significant archaeological resources. Such resources shall be protected and preserved, and any mitigation measures proposed as a part of the development of a Solar Energy System shall be undertaken in consultation with the NYS Historic Preservation Office and all other pertinent local and state historical preservation authorities.
        4. Schools, churches, and cemeteries.
        5. Waterfront Residential zone.

3) Height

    a. The Tier 3 Solar Energy Systems shall comply with the building height limitations for principal structures of the Industrial but in no case shall exceed 12 feet.

4) Lot coverage

a. The following components of a Tier 3 Solar Energy System shall be considered included in the calculations for lot coverage requirements:

I. The surface area of solar panels.

II. Foundation systems, typically consisting of driven piles or monopoles or helical screws with or without small concrete collars.

III. All mechanical equipment of the Solar Energy System, including any pad mounted structures, switchboard, or transformers

IV. Access roads servicing the Solar Energy System.

b. Lot coverage of the Solar Energy System, as defined above, shall not exceed the maximum lot coverage requirement of the Industrial Zoning district.

5) Fencing Requirements. All Solar Energy System equipment and structures shall be enclosed by a 7-foot high fence, as required by NEC, with a self-locking gate to prevent unauthorized access.

6) Screening and Visibility.

a. Solar Energy Systems smaller than 2 acres shall have views minimized from adjacent properties to the maximum extent practicable using architectural features, earth berms, landscaping, natural terrain features, forest buffers, hedgerows, or other screening methods that will harmonize with the character of the property and surrounding area.

b. Solar Energy Systems larger than 2 acres shall be required to:

I. Conduct a visual assessment of the visual impacts of the Solar Energy System on public roadways and adjacent properties. At a minimum, a line-of-sight profile analysis shall be provided. Depending upon the scope and potential significance of the visual impacts, at the Code Enforcement Officer's discretion, additional information and study may be required prior to any application being deemed complete.

II. Submit a screening & landscaping plan to show adequate measures to screen through landscaping, grading, or other means so that views of Solar Panels and Solar Energy Equipment shall be minimized as reasonably practical from public roadways and adjacent properties to the extent feasible.

i. The screening & landscaping plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system. The landscaped screening shall be comprised of evergreen trees, at least 6 feet high at time of planting, plus supplemental shrubs at the reasonable discretion of the Town Board, all planted within each 10 linear feet of the Solar Energy System. Existing vegetation may be used to satisfy all or a portion of the required landscaped screening. A list of suitable evergreen tree and shrub species should be provided by the Town.

ii. Additional screening plan information may be required at the discretion of the Code Enforcement Officer prior to any application being deemed complete.

Q. Ownership Changes. If the owner or operator of the Solar Energy System changes or the owner of the property changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special use permit, site plan approval, and decommissioning plan. A new owner or operator of the Solar Energy System shall notify the zoning enforcement officer of such change in ownership or operator within 30 days of the ownership change.

R. To boost American manufacturing, including in iron and steel, and to further federal government policy concerning the same, any steel, iron, or manufactured product which is a component of a Solar Energy Facility in the Town of Yates shall be produced in the United States.

9. Safety

A. Solar Energy Systems and Solar Energy Equipment shall be certified under the applicable electrical and/or building codes as required.

B. Solar Energy Systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department and, if the Tier 3 Solar Energy System is located in an ambulance district, the local ambulance corps.

C. In the Town's effort to protect public health and promote public safety, given the health and safety concerns associated with lithium-ion batteries and large-scale battery devices in general, Tier 2 Battery Energy Storage Systems are prohibited in the Town of Yates. In the event the prohibition on Tier 2 BESS is waived or not applied by any New York State agency or official, then Tier 2 BESS shall be subject to the following additional substantive standards:

a. Tier 2 BESS are only a permitted use in the Industrial District.

b. Tier 2 BESS shall not be installed within 2,500 feet of any occupied structure.
c. Tier 2 BESS shall be setback at least 1,000 feet from any property boundary.

10. Permit Time Frame, Decommissioning and Abandonment

A. The Special Use Permit and site plan approval for Tier 3 Solar Energy Systems shall be valid for a period of 18 months, provided that a building permit is issued for construction. In the event construction is not completed in accordance with the final site plan, as may have been amended and approved, as required by the Town Board, within 18 months after approval, the applicant or the Town may extend the time to complete construction for 180 days. If the owner and/or operator fails to perform substantial construction after 24 months, the approvals shall expire.

B. Upon cessation of electricity generation of a Solar Energy System on a continuous basis for 12 months, the Town may notify and instruct the owner and/or operator of the Solar Energy System to implement the decommissioning plan. The decommissioning plan must be completed within 270 days of notification. The owner of the Solar Energy facility, as provided for in its lease with the landowner, shall completely restore the property to its condition as it existed before the facility was installed, pursuant to which may include the following:

1. Removal of all operator-owned equipment, concrete, conduits, structures, fencing, and foundations to a depth of 48 inches below the soil surface.
2. Removal of any solid and hazardous waste caused by the facility in accordance with local, state and federal waste disposal regulations.
3. Removal of all graveled areas and access roads unless the landowner requests in writing for it to remain.

C. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town may, at its discretion, utilize the bond and/or security for the removal of the Solar Energy System and restoration of the site in accordance with the decommissioning plan.

11. Enforcement

Any violation of this Solar Energy Law shall be subject to the same enforcement requirements, including the civil and criminal penalties, provided for in the zoning or land use regulations of the Town.

12. Severability

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.

ARTICLE II: REPEALER OF INCONSISTENT LAWS
Local Law No. 1 of 2021, entitled “Solar Energy Systems Law,” is hereby repealed in its entirety.

ARTCILE III: EFFECTIVE DATE
This Local Law shall take effect immediately upon filing with the Department of State.

PUBLIC COMMENT

Paul Lauricella, Town of Yates, asked how much it cost to hire Ben Wisniewski.

Bill Jurinich, Town of Yates, asked if the Board put something in there about the storage.

RESOLUTION NO. 57-6/24

RESOLUTION TO CLOSE THE PUBLIC HEARING ON LOCAL LAW #1 OF 2024 KNOWN AS THE TOWN OF YATES SOLAR ENERGY SYSTEMS LAW

WHEREAS, all persons wishing to submit comments either written or spoken were heard, be it

RESOLVED, to close the Public Hearing at 5:40PM.

Offered by Councilman Riggi, who moved its adoption
Seconded by Councilman Chaffee

5 Ayes 0 Nays

Motion: Carried

ADJOURNMENT

Moved by Councilman Hrovat, Whereas there is no new business to be brought before the Board, the meeting be adjourned at 5:40PM.

Seconded by Councilman Suhr

5 Ayes 0 Nays

Motion: Carried

Respectfully Submitted,
Michele L. Harling
Yates Town Clerk